

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 14-731V

Filed: December 1, 2014

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PANSY DOWNS,

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Petitioner,

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SECRETARY OF HEALTH  
AND HUMAN SERVICES,

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Respondent.

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Ronald Homer, Conway, Homer & Chin-Caplan, P.C., Boston, MA, for petitioner.

Michael Milmo, US Department of Justice, Washington, DC, for respondent.

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Vowell**, Chief Special Master:

On August 13, 2014, Pansy Downs filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> [the “Vaccine Act” or “Program”]. Petitioner alleged that she suffered an injection-related left shoulder injury which was caused in fact by the influenza vaccine she received on October 10, 2011. Petition at 1, 7. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 7, 2014, respondent’s counsel verbally informed the OSM staff attorney managing this case that respondent wished to concede the issue of entitlement in this case. See Order, issued Nov. 10, 2014, at 1. He asked if I required respondent to concede entitlement in a Rule 4(c) report or if a status report would be sufficient. See *id.* As I indicated, “[a] written indication from respondent’s counsel that respondent is

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

conceding the issue of entitlement whether in a status report or Rule 4(c) report would be sufficient for me to find entitlement and move the case into the damages phase. *Id.*

On November 24, 2014, respondent filed a status report conceding entitlement in this case. Specifically, respondent indicates “that petitioner is entitled to vaccine compensation for her shoulder injury.” Status Report at 1.

**In view of respondent’s concession and the evidence before me, I find that petitioner is entitled to compensation.**

**s/Denise K. Vowell**

Denise K. Vowell  
Chief Special Master